

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics
2 in government, so as to substantially revise the "Ethics in Government Act"; to rename the
3 Georgia Government Transparency and Campaign Finance Commission as the State Ethics
4 Commission; to change certain provisions relating to campaign contributions; to change
5 provisions relating to the powers and duties of the commission; to change provisions relating
6 to public officials' conduct and lobbyist disclosure; to change provisions relating to
7 postemployment restrictions on public officers; to amend Title 45 of the Official Code of
8 Georgia Annotated, relating to public officers and employees, so as to conform certain
9 cross-references; to provide for related matters; to provide for an effective date; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

I.

Campaign contributions.

SECTION 1.

14 Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in
15 government, is amended by adding a new Code section to read as follows:

16 "21-5-30.3.

17 (a) Except as otherwise provided in this subsection, the definitions set forth in Code
18 Section 21-5-3 shall be applicable to the provisions of this Code section. As used in this
19 Code section, the term:

20 (1) 'Contribution' means a gift, subscription, membership, loan, forgiveness of debt,
21 advance or deposit of money, or anything of value conveyed or transferred for the
22 purpose of influencing the nomination for election or election of an individual to the
23 office of an elected executive officer or for the purpose of encouraging the holder of such
24 office to seek reelection. Such term shall include the payment of a qualifying fee and
25 office to seek reelection. Such term shall include the payment of a qualifying fee and

26 travel expenses for and on behalf of a candidate for the office of an elected executive
27 officer and any other payment or purchase made for and on behalf of the holder of the
28 office of an elected executive officer or for or on behalf of a candidate for that office
29 when such payment or purchase is made for the purpose of influencing the nomination
30 for election or election of the candidate and is made pursuant to the request or authority
31 of the holder of such office, the candidate, the campaign committee of the candidate, or
32 any other agent of the holder of such office or the candidate. Such term shall include any
33 such payment to a member of the family of a candidate or public officer. Such term shall
34 not include the value of personal services performed by persons who serve on a voluntary
35 basis without compensation from any source.

36 (2) 'Disclosure report' means a report filed with the commission by a political action
37 committee setting forth all expenditures of more than \$100.00 and all contributions of
38 more than \$100.00 for the calendar year in which the report is filed. Such report shall
39 also include the total amount of all contributions received or expenditures made of less
40 than \$100.00 each.

41 (3) 'Political action committee' means any committee, club, association, partnership,
42 corporation, or other group of persons which receives donations aggregating in excess of
43 \$1,000.00 during a calendar year from persons who are members or supporters of the
44 committee and which distributes these funds as contributions to one or more campaign
45 committees of candidates for public office. Such term shall not include a campaign
46 committee.

47 (b) No political action committee and no person acting on behalf of a political action
48 committee shall make contributions or transfers of funds to other political action
49 committees or persons acting on behalf of other political action committees which in the
50 aggregate for a two-year election cycle exceed \$10,000.00.

51 (c) No political action committee and no person acting on behalf of a political action
52 committee shall accept a contribution from any person which exceeds \$1,000.00.

53 (d) Not later than January 3, each year, each political action committee shall be required
54 to annually file with the commission a disclosure report with expenditures and
55 contributions made during the preceding calendar year.

56 (e) A candidate or candidate's campaign committee shall not make contributions to any
57 candidate, political action committee, candidate's campaign committee, political
58 committee, or political party which in the aggregate for a two-year election cycle exceed
59 \$10,000.00."

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II.

Lobbyist registration, limitations, and disclosures.

SECTION 2.

Said chapter is further amended by revising subsection (f) of Code Section 21-5-71, relating to registration of lobbyists, applications for registration, supplemental registration, expiration, docket, fees, identification cards, public rosters, and exemptions, as follows:

"(f)(1) Each person registering under this Code section shall pay the registration fees set forth in paragraph (2) of this subsection; provided, however, that a person who represents any state, county, municipal, or public agency, department, commission, or authority shall be exempted from payment of such registration fees.

(2) The commission shall collect the following fees:

(A) Annual lobbyist registration or renewal filed pursuant to this Code section. ~~\$300.00~~ \$150.00

(B) Lobbyist supplemental registration filed pursuant to this Code section. ~~10.00~~ 50.00

(C) Each copy of a lobbyist identification card issued pursuant to this Code section. 20.00

(D)(i) For reports filed when the General Assembly is not in session, in addition to other penalties provided under this chapter, a late fee of \$275.00 shall be imposed for each report that is filed late. In addition, a late fee of \$1,000.00 shall be imposed on the fifteenth day after the due date for such report if the report has not been filed. A late fee of \$10,000.00 shall be imposed on the forty-fifth day after the due date for such report if the report has not been filed.

(ii) The commission shall retain \$25.00 of the first late fee received for processing pursuant to the provisions of Code Section 45-12-92.1.

(E)(i) For reports filed when the General Assembly is in session, in addition to other penalties provided under this chapter, a late fee of \$275.00 shall be imposed for each report that is filed late. In addition, a late fee of \$1,000.00 shall be imposed on the seventh day after the due date for such report if the report has not been filed. A late fee of \$10,000.00 shall be imposed on the twenty-first day after the due date for such report if the report has not been filed.

(ii) The commission shall retain \$25.00 of the first late fee received for processing pursuant to the provisions of Code Section 45-12-92.1."

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SECTION 3.

Said chapter is further amended by revising paragraph (1) of Code Section 21-5-70, relating to definitions for provisions relating to public officials' conduct and lobbyist disclosure, as follows:

"(1) 'Expenditure':

- (A) Means a purchase, payment, distribution, loan, advance, deposit, or conveyance of money or anything of value made for the purpose of influencing the actions of any public officer, specifically including any such transaction which is made on behalf of or for the benefit of a public employee for the purpose of influencing a public officer;
- (B) Includes any other form of payment when such can be reasonably construed as designed to encourage or influence a public officer;
- (B.1) Includes reimbursement or payment of actual and reasonable expenses provided to a public officer for transportation, travel, lodging, registration, food, beverages, and other activities related to attending a meeting or conference so as to permit such public officer's participation in such meeting or conference;
- (C) Includes any gratuitous transfer, payment, subscription, advance, or deposit of money, services, or anything of value, unless consideration of equal or greater value is received;
- (D) Notwithstanding division (x) of subparagraph (E) of this paragraph, includes food or beverage consumed at a single meal or event by a public officer or public employee or a member of the family of such public officer or public employee; ~~and~~
- (D.1) Includes any such transaction or expenditure as provided in subparagraph (A), (B), (B.1), or (C) made to a family member of a public officer and an employee of a public officer; and
- (E) The term shall not include:
 - (i) The value of personal services performed by persons who serve voluntarily without compensation from any source;
 - (ii) A gift received from a member of the public officer's family;
 - (iii) Legal compensation or expense reimbursement provided to public employees and to public officers in the performance of their duties;
 - (iv) Promotional items generally distributed to the general public or to public officers and food and beverages produced in Georgia;
 - (v) An award, plaque, certificate, memento, or similar item given in recognition of the recipient's civic, charitable, political, professional, or public service;
 - (vi) Legitimate salary, benefits, fees, commissions, or expenses associated with a recipient's nonpublic business, employment, trade, or profession;

- 129 (vii) Food, beverages, and registration at group events to which all members of an
- 130 agency, as defined in paragraph (1) of subsection (a) of Code Section 21-5-30.2, are
- 131 invited. An agency shall include the Georgia House of Representatives, the Georgia
- 132 Senate, committees and subcommittees of such bodies, and the governing body of
- 133 each political subdivision of this state;
- 134 (viii) Campaign contributions or expenditures reported as required by Article 2 of
- 135 this chapter;
- 136 (ix) A commercially reasonable loan made in the ordinary course of business;
- 137 (x) Food, beverage, or expenses afforded public officers, members of their immediate
- 138 families, or others that are associated with normal and customary business or social
- 139 functions or activities; or
- 140 (xi) Transportation unless a lobbyist arranges for or participates in such
- 141 transportation."

142 **SECTION 4.**

143 Said chapter is further amended by revising subsection (a) of Code Section 21-5-73, relating
 144 to disclosure reports, as follows:

145 "(a) No lobbyist shall make any expenditure to any public officer, any employee of a
 146 public officer, or any member of the family of a public officer in an amount exceeding
 147 \$100.00; provided, however, that any expenditure as provided for in subparagraph (B.1)
 148 of paragraph (1) of Code Section 21-5-70 shall not exceed \$500.00 per event.

149 (a.1) Each lobbyist registered under this article shall file disclosure reports as provided for
 150 in this Code section in the electronic format specified by the commission."

151 **III.**

152 The "State Ethics Commission."

153 **SECTION 5.**

154 Said chapter is further amended by revising paragraph (5) of Code Section 21-5-3, relating
 155 to definitions for general provisions relating to ethics in government, as follows:

156 "(5) 'Commission' means the Georgia Government Transparency and Campaign Finance
 157 State Ethics Commission created under Code Section 21-5-4."

158 **SECTION 6.**

159 Said chapter is further amended by revising Code Section 21-5-4, relating to the Georgia
 160 Government Transparency and Campaign Finance Commission, membership, officers,
 161 quorum, and meetings, as follows:

162 "a) The ~~Georgia Government Transparency and Campaign Finance~~ State Ethics
 163 Commission shall be a successor to the ~~State Ethics~~ Georgia Government Transparency
 164 and Campaign Finance Commission, with such duties and powers as are set forth in this
 165 chapter. As the successor commission, it shall have all the powers and duties granted to
 166 the ~~State Ethics~~ Georgia Government Transparency and Campaign Finance Commission
 167 in all matters pending before the ~~State Ethics~~ Georgia Government Transparency and
 168 Campaign Finance Commission and may continue to investigate, prosecute, and act upon
 169 all such matters.

170 (b) The commission shall be governed by five members appointed as follows: three
 171 members, not more than two of whom shall be from the same political party, shall be
 172 appointed by the Governor, two for terms of three years and one for a term of two years;
 173 one member shall be appointed by the Senate Committee on Assignments for a term of four
 174 years; and one member shall be appointed by the Speaker of the House of Representatives
 175 for a term of four years. Upon the expiration of a member's term of office, a new member,
 176 appointed in the same manner as the member whose term of office expired as provided in
 177 this subsection, shall become a member of the commission and shall serve for a term of
 178 four years and until such member's successor is duly appointed and qualified. If a vacancy
 179 occurs in the membership of the commission, a new member shall be appointed to the
 180 unexpired term of office by the state official or the committee that appointed the vacating
 181 member. Members of the commission shall not serve for more than one complete term of
 182 office.

183 (c) All members of the commission shall be residents of this state.

184 (d) Any person who:

185 (1) Has qualified to run for any federal, state, or local public office within a period of
 186 five years prior to such person's appointment;

187 (2) Has held any federal, state, or local public office within a period of five years prior
 188 to such person's appointment; or

189 (3) Serves as an officer of any political party, whether such office is elective or
 190 appointive and whether such office exists on a local, state, or national level;

191 (4) Is currently a lobbyist or has served as a lobbyist within five years of such person's
 192 appointment;

193 (5) Is receiving or has received within five years of such person's appointment
 194 compensation from a lobbyist group, organization, or firm or another lobbyist; or

195 (6) Has a family member who is currently a lobbyist

196 shall be ineligible to serve as a member of the commission.

197 (e) The commission shall elect a chairperson, a vice chairperson, and other officers as it
 198 deems necessary. The members shall not be compensated for their services but they shall

199 be reimbursed in an amount equal to the per diem received by the General Assembly for
 200 each day or portion thereof spent in serving as members of the commission. They shall be
 201 paid their necessary traveling expenses while engaged in the business of the commission.
 202 (f) A majority of the members of the commission constitutes a quorum for the transaction
 203 of business. The vote of at least a majority of the members present at any meeting at which
 204 a quorum is present is necessary for any action to be taken by the commission. No vacancy
 205 in the membership of the commission impairs the right of a quorum to exercise all rights
 206 and perform all duties of the commission.
 207 (g) Meetings of the members of the commission shall be held at the call of the chairperson
 208 or whenever any two members so request."

209 SECTION 7.

210 Said chapter is further amended by revising subsection (a) of Code Section 21-5-6, relating
 211 to the powers and duties of the Georgia Government Transparency and Campaign Finance
 212 Commission, as follows:

213 "21-5-6.

214 (a) The commission is vested with the following powers:

- 215 (1) To meet at such times and places as it may deem necessary;
- 216 (2) To contract with other agencies, public or private, or persons as it deems necessary
 217 for the rendering and affording of such services, facilities, studies, and reports to the
 218 commission as will best assist it to carry out its duties and responsibilities;
- 219 (3) To cooperate with and secure the cooperation of every department, agency, or
 220 instrumentality in the state government or its political subdivisions in the furtherance of
 221 the purposes of this chapter;
- 222 (4) To employ an executive secretary and such additional staff as the commission deems
 223 necessary to carry out the powers delegated to the commission by this chapter;
- 224 (5) To issue subpoenas to compel any person to appear, give sworn testimony, or
 225 produce documentary or other evidence;
- 226 (6) To institute and prosecute actions in the superior courts, in its own name, seeking to
 227 enjoin or restrain any violation or threatened violation of this chapter;
- 228 (7) To adopt in accordance with Chapter 13 of Title 50, the 'Georgia Administrative
 229 Procedure Act,' such rules and regulations as are ~~specifically authorized in~~ necessary to
 230 implement the purposes and requirements of this chapter; and
- 231 (8) To do any and all things necessary or convenient to enable it to perform wholly and
 232 adequately its duties and to exercise the powers specifically authorized to it in this
 233 chapter."

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SECTION 8.

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Title 45 of the Official Code of Georgia Annotated, relating to public officers and employees, is amended by revising paragraph (1) of subsection (a) of Code Section 45-1-6, relating to gifts to employees by vendors, disclosure, and reports, as follows:

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"(1) 'Commission' means the ~~Georgia Government Transparency and Campaign Finance~~ State Ethics Commission created under Code Section 21-5-4."

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SECTION 9.

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Said title is further amended by revising Code Section 45-7-7, relating to compensation and allowances of certain officials not to be changed without giving public notice, as follows:

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"45-7-7.

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(a) The compensation or allowances of the officials listed in subsection (b) of this Code section shall not be changed by the governing board or body having the authority to do so unless public notice of such proposed action and amount shall have been given at least 30 days prior to the date such board or body shall consider such action and unless notice of such proposed change shall have likewise been given to the Governor by the board or body at least 30 days prior to the date of such proposed change.

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(b) Subsection (a) of this Code section shall apply to the compensation and allowances of the commissioner of community affairs, the director of the Employees' Retirement System of Georgia, the director of the State Forestry Commission, the director of the Georgia Bureau of Investigation, the executive director of the Georgia Franchise Practices Commission, the commissioner of human services, the commissioner of economic development, the commissioner of natural resources, the commissioner of public safety, the chancellor of the University System of Georgia, the president or executive director of the Georgia Student Finance Commission, the executive director of the State Soil and Water Conservation Commission, the executive secretary-treasurer of the Teachers Retirement System of Georgia, the commissioner of transportation, and the executive director of the ~~Georgia Government Transparency and Campaign Finance~~ State Ethics Commission."

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SECTION 10.

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Said title is further amended by revising subsection (a) of Code Section 45-10-26, relating to public officials and employees to file yearly disclosure statements concerning business transactions with the state and statements to be public records, as follows:

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"(a) Except as provided in subsection (b) of this Code section, any public official or employee, whether for himself, herself, or on behalf of any business, or any business in which such public official or employee or any member of his or her family has a substantial

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269 interest who transacts business with the state or any agency thereof shall disclose such
 270 transactions. Such disclosure shall be submitted prior to January 31 each year to the
 271 ~~Georgia Government Transparency and Campaign Finance~~ State Ethics Commission on
 272 such forms as it shall prescribe and shall include an itemized list of the previous year's
 273 transactions with the dollar amount of each transaction reported and totaled. Such
 274 disclosure statements shall be public records."

275 IV.

276 Conduct of public officials.

277 SECTION 11.

278 Chapter 5 of Title 21 of the Official Code of Georgia Annotated, relating to ethics in
 279 government, is amended by revising Code Section 21-5-11, relating to acceptance by public
 280 officers of monetary fees or honoraria, as follows:

281 "21-5-11.

282 (a) No public officer other than a public officer elected state wide shall accept a monetary
 283 fee or honorarium in excess of \$100.00 for a speaking engagement, participation in a
 284 seminar, discussion panel, or other activity which directly relates to the official duties of
 285 that public officer or the office of that public officer.

286 (b) No public officer elected state wide shall accept any monetary fee or honorarium for
 287 a speaking engagement, participation in a seminar, discussion panel, or other such activity.

288 (c) For purposes of this chapter, actual and reasonable expenses for food, beverages,
 289 travel, lodging, and registration for a meeting which are provided to permit participation
 290 in a panel or speaking engagement at the meeting shall not be monetary fees or honoraria.

291 (d) On and after July 1, 2012, no public officer or a member of his or her family shall
 292 accept or enter into a contract for the provision of goods or services to any public entity
 293 other than the employment agreement for the office to which he or she has been elected to
 294 serve; provided, however, that the provisions of this subsection shall not apply where the
 295 public officer or a member of his or her family is the sole reasonably available supplier of
 296 such goods or services.

297 (e) No public officer shall receive compensation or payment of any kind for lobbying
 298 members of Congress or providing lobbyist services in other states."

299 SECTION 12.

300 Said chapter is further amended in subsection (a) of Code Section 21-5-50, relating to filing
 301 financial disclosure statements by public officers, candidates for public office, elected

302 officials and members of the General Assembly, electronic filing, and transfer of filings from
 303 the Secretary of State to the commission, by adding a new paragraph to read as follows:

304 "(7) Any public officer or any person serving either as a member of a state board,
 305 commission, or authority or as the head or executive director of a state department,
 306 bureau, agency, authority, or other similarly designated state entity shall file with the
 307 commission not before the first day of January nor later than July 1 of each year in which
 308 such person holds office a financial disclosure statement for the preceding calendar year.
 309 In addition, each such public officer shall file with the commission, together with the
 310 financial disclosure statement, an affidavit confirming that he or she took no official
 311 action in the previous calendar year that had a material effect on such public officer's
 312 private financial or business interests."

313 SECTION 13.

314 Said chapter is further amended by revising Code Section 21-5-75, relating to
 315 postemployment restrictions on public officers, as follows:

316 "21-5-75.

317 (a) Except as provided in subsection (b) of this Code section, on and after ~~January 8, 2007~~
 318 July 1, 2012, persons identified in subparagraphs (A) through (D) of paragraph (22) of
 319 Code Section 21-5-3 and the executive director of each state board, commission, or
 320 authority shall be prohibited from registering as a lobbyist or engaging in lobbying under
 321 this article for a period of ~~one year~~ two years after terminating such employment or leaving
 322 such office.

323 (b) The lobbying prohibition contained in subsection (a) of this Code section shall not
 324 apply to persons who terminate such employment or leave such office but who remain
 325 employed in state government."

326 V.

327 Effective date and repealer.

328 SECTION 14.

329 This Act shall become effective on July 1, 2012.

330 SECTION 15.

331 All laws and parts of laws in conflict with this Act are repealed.